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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/597,780

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Ewald Schmon

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6277

27317 7590 01/25/2010  
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EXAMINER

JONAITIS, JUSTIN M

ART UNIT

PAPER NUMBER

3752

MAIL DATE

DELIVERY MODE

01/25/2010

PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b> 10/597,780	<b>Applicant(s)</b> SCHMON ET AL.	
	<b>Examiner</b> JUSTIN JONAITIS	<b>Art Unit</b> 3752	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 08 September 2009.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 18-25 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 18-25 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 07 May 2009 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All    b) ☐ Some \*    c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |   |   |
|---|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftperson's Patent Drawing Review (PTO-948)   | 5) <input type="checkbox"/> Notice of Informal Patent Application                       |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date <u>11/04/2009</u> . | 6) <input type="checkbox"/> Other: _____  |

## **DETAILED ACTION**

### ***Drawings***

1. The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the open skirt, first valve, and second valve, and the receptacle having a connecting element must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

### ***Claim Rejections - 35 USC § 112***

2. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

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3. Claims 18-25 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention. The amendment filed 09/08/2009 is objected to under 35 U.S.C. 132(a) because it introduces new matter into the disclosure. 35 U.S.C. 132(a) states that no amendment shall introduce new matter into the disclosure of the invention. The added material which is not supported by the original disclosure is as follows:

In regard to claims 18-21, applicant states in claim 18, "... (c) a valve closure element composed of a cap from which depends **an open skirt** having an internal diameter substantially equal to said preselected external diameter, and skirt being received over the open end of said hollow cylinder and being in engagement with the exterior surface; (d) the first valve element comprised of a support part that extends with clearance from said cap to below the skirt and terminates at it's lower end in a tapered plug for cooperating with said tapered hole as a first valve; (e) a second valve element comprised of a portion of a the skirt remote from said cap for cooperating with said second valve seat as a **second valve**; (f) said two valves being arranged serially relative to ventilation the path of which extends from said through hole, being between the hollow cylinder and the support member, between the cap and the open end of the hollow cylinder, between the exterior surface of the hollow cylinder and the skirt, past the second valve with air entering the path at a lower end of the skirt..."

There was no previous mention in the application as originally filed in the specification or originally filed claims disclosing a skirt or a second valve or any of the particulars with their arrangement as seen in the disclosure of claim 18.

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In regard to claim 22, applicant discloses, "...wherein the **receptacle has a connecting element** in order to place the fluid reservoir on the paint spray gun..." as well as a second valve (portions (VI) - (VIII)).

Again, there was no previous mention in the application as originally filed in the specification or originally filed claims disclosing second valve or any of the particulars with it's arrangement as seen in the disclosure of claim 22. Further in the response to arguments dated 04/29/2009 applicant states on page 10 in regard to the Copp reference that the device disclosed in the instant application is drawn to an apparatus with in which the connecting element is arranged on the lid and not the connecting element being arranged on the bottom of the receptacle as disclosed by Copp. Therefore, the disclosure of a receptacle having a connecting element disclosed in claim 22, was not previously disclosed by the application.

In regard to claim 23 applicant discloses, "...said valve closure element defining a second valve element comprised of a surface located at a lower part of the hollow cylindrical base member that co-acts with said second valve seat to serve as a second valve; said two valves being arranged one behind the other relative to ventilation flow; ..."

Again, there was no previous mention in the application as originally filed in the specification or originally filed claims disclosing second valve or any of the particulars with it's arrangement as seen in the disclosure of claim 23.

In regard to claims 24-25, applicant discloses in claim 24, "a valve closure element composed of a cap from which depends on an **open skirt** having an internal diameter substantially equal to said preselected external diameter, said skirt being received over the open end of said hollow cylinder and being in engagement with the exterior surface; ... a

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second valve element comprised of a portion of the skirt remove from said cap for cooperating with said second valve seat as a **second valve**; said two valves being arranged serially relative to the ventilation path of which extends from said through hole, between the hollow cylinder and the support member, between the cap and the open end of the hollow cylinder, between the exterior surface of the hollow cylinder and the skirt, past the second valve with air entering the path at a lower open end of the skirt; ... closed off serially by said first and second valves so interior of the receptacle is shut off from the environment and any leakage of liquid from the receptacle through the first valve into the ventilation path will be trapped by the second valve, and a second valve position in which both valves are open..."

There was no previous mention in the application as originally filed in the specification or originally filed claims disclosing a skirt or a second valve or any of the particulars with their arrangement as seen in the disclosure of claim 24.

Applicant is required to cancel the new matter in the reply to this Office Action.

### ***Response to Arguments***

4. Applicant's arguments with respect to claims 18-25 have been considered but are moot in view of the new ground(s) of rejection.

### ***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to JUSTIN JONAITIS whose telephone number is (571)270-5150. The examiner can normally be reached on Monday - Thurs 6:30am - 5:00 pm EST.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Len Tran can be reached on (571)272-1184. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/JUSTIN JONAITIS/  
Examiner, Art Unit 3752

/Dinh Q Nguyen/  
Primary Examiner, Art Unit 3752